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Patent Owner's Docket No. U 013871-4

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Robert J. MEDOFF

Application No.: 10/073,826

Filed: February 11, 2002

Group No.: 3732

Examiner: Robert, Eduardo C.

Confirmation No. 5504

For: IMPLANT DEVICE FOR APPLYING COMPRESSION ACROSS A FRACTURE SITE

**Commissioner for Patents
Office of Publications, Query and Correspondence Branch
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**LETTER ACCOMPANYING AMENDMENT AFTER ALLOWANCE
(37 C.F.R. Section 1.312)**

1. Please make the amendments shown in the attached papers in this application in the

- ☐ abstract.
- ☐ specification.
- ☐ drawings.
- ☒ claims.

NOTE: "No amendment may be made as a matter of right in an application after the mailing of the notice of allowance." 37 C.F.R. Section 1.312(a).

NOTE: Any increase in fees that may be required by amendments to the claims must be attended to in full in the attached papers or by general authorization to pay fees under 37 C.F.R. Section 16, otherwise, the amendment will not be considered by the Examiner. M.P.E.P. Section 714.16(c), 7th ed.

CERTIFICATE OF MAILING/TRANSMISSION (37 CFR 1.8a)

I hereby certify that this correspondence is, on the date shown below, being:

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- ☐ deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450

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12/1/05
Date: December 1
November 11, 2005

JULIAN H. COHEN

Signature

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WARNING: Submissions after a Notice of Allowance may subject an application to a reduction in patent term adjustment under 37 C.F.R. 1.704(c)(10). Examples of such submissions are: (1) a request for a refund, (2) a status letter, (3) amendments under 37 C.F.R. 1.312, (4) a late priority claim, (5) a certified copy of a priority document, (6) drawings, (7) letters related to biological deposits, and (8) oaths or declarations. See Notice of May 29, 2001, 1247 OG 111-112, June 26, 2001.

2. Type of amendment:

☐ Correction of formal matters

As shown in the remarks of the attached paper, these (1) are needed for proper disclosure or protection of the invention and (2) require no substantial amount of additional work on the part of the PTO.

NOTE: No showing as to why the amendments to correct formal matters was not earlier presented need be made, unless the issue fee was already paid.

☒ Other (affects the disclosure, the scope of any claim or adds a claim) (M.P.E.P. Section 714.16, 7th Edition):

As shown in the remarks in the attached supplemental page(s), there is stated the reason (1) why the amendment is needed, (2) why the proposed amended or new claims require no additional search or examination, (3) why the claims are patentable, and (4) why they were not earlier presented.

3. The issue fee:

☒ has not been paid.
☐ is paid separately herewith.

4. Additional fees:

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RESPONSE UNDER 37 CFR 1.312

This response is submitted under 37 CFR 1.312 in answer to the Examiner's Amendment accompanying the Notice of Allowance dated October 31, 2005.

In the Examiner's Amendment, claims 5 and 10 were cancelled as drawn to species non-elected without traverse.

It is requested that these claims be re-instated in this application.

Claims 5 and 10 are ultimately dependent from generic claim 1. In accordance with 37 CRF 1.141 upon allowance of a generic claim, Applicant is entitled to allowance of dependent claims drawn to non-elected species.

Therefore, it was improper for the Examiner to cancel claims 5 and 10 and reinstatement of these claims is requested by way of a Supplemental Notice of Allowability with revised Examiner's Amendment.

A copy of the pending claims is annexed hereto.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Julian H. Cohen", written over a horizontal line.

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